IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 13786 of 2004

Between:

Sunder Das, S/o.Sri Jethanandji Chotrani,
R/o.Flat No.611, D.No.1-2-30, Prithvi Mansion, Domalguda,
Hyderabad.

..... PETITIONER

AND

1. Govt.of A.P., rep. by its Secretary to Govt.,

General Administration Department, Secretariat Buildings,

Saifabad,Hyderabad.

2 Mr.Mohd.Ismail, S/o.Late Rahmatullah,57 years, business;
R/o.H.No.10-03-03/2, East Marredpalli,
Secunderabad.

3 The Court of XI Asst.Judge, City Civil Court, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to grant any writ, direction or orders more particularly one in the nature of writ of Mandamus by declaring the G.O.Ms.No.636 General Administration (Accommodation-A) Department dt.29-12-1983, as illegal, arbitrary, un-just, contrary to law, violative of provisions of A.P. Buildings (Lease, Rent and Eviction) Control Act and is discriminatory and violative of Article 14 of the Constitution of India and issue a direction restraining the learned 3rd respondent court from executing Decree in O.S.No.530 of 1993 on its file on the ground that the civil court have no jurisdiction to try the said dispute and declare that the only remedy available to the 2nd respondent is to approach the court under AP Buildings (Lease, Rent & Eviction) control Act.

Counsel for the Petitioner: MR.C.V.BHASKAR REDDY

Counsel for the Respondents 1 & 3: GP FOR GENERAL ADMINISTRATION

Counsel for Respondent No.2 : Mr.Vedula Venkata Ramana.

The Court made the following :

ORDER:-

Heard both the learned counsel and at their request, the writ petition itself is taken up for disposal.

Petitioner herein, who is a tenant, seeks to assail, by way of writ of Mandamus, G.O.Ms.No.636 General Administration (Accommodation-A) Department dated 29-12-1983 as illegal and further seeks for a direction restraining third respondent herein from executing the decree in O.S.No.530 of 1993 on the file of XI Assistant Judge, Secunderabad.

The case of the petitioner is that though third respondent filed suit for eviction and the same on contest decreed, however, he is entitled to the benefits under the Rent Control Legislation, on the basis of which, G.O.Ms.No.636 dated 29-12-1983 requires to be re-assessed by taking into consideration the increase in the value of rupee. Therefore, this writ petition is filed.

Having heard the submissions made on either side and on perusal of the material on record, it is seen that there is no dispute in regard to the fact that the petitioner suffered a decree in the suit filed by third respondent on contest and it is only thereafter, he approached this Court by seeking declaration that G.O.Ms.No.636 dated 29-12-1983 as illegal. The said G.O. was already challenged before this Court in **M. SREERAMULU VS. MRS. TAHERA YOUSUF KADRI.** Having regard to the same, the approach of the petitioner by invoking jurisdiction of this Court under Article 226 of the Constitution of India, more so, after suffering a decree, is nothing but abuse of process of law to stall the proceedings and also to stall willfully the decree obtained by third respondent. Hence, I do not find any merit in this writ petition.

Accordingly, this writ petition is dismissed. No costs.

Stv/-

Sd/-

ASSISTASNT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary to Government, Govt.of A.P.,

General Administration Department, Secretariat Buildings,

Saifabad,Hyderabad.
.2 The Court of XI Asst.Judge, City Civil Court, Secunderabad

3.2CCs to G.P. for General Administration, High Court Buildings

Hyderabad(OUT)

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